

## Nuclear Regulatory Commission

## § 2.1405

(3) Production or utilization facility licensing actions that involve significant hazards considerations as defined in 10 CFR 50.92.

(b)(1) The NRC staff is not required to be a party to proceedings under this subpart, except where:

(i) The proceeding involves an application denied by the NRC staff or an enforcement action proposed by the staff; or

(ii) The presiding officer determines that the resolution of any issue in the proceeding would be aided materially by the NRC staff's participation in the proceeding as a party and orders the staff to participate as a party for the identified issue. In the event that the presiding officer determines that the NRC staff's participation is necessary, the presiding officer shall issue an order identifying the issue(s) on which the staff is to participate as well as setting forth the basis for the determination that staff participation will materially aid in resolution of the issue(s).

(2) Within fifteen (15) days of the issuance of the order granting requests for hearing/petitions to intervene and admitting contentions, the NRC staff shall notify the presiding officer and the parties whether it desires to participate as a party, and identify the contentions on which it wishes to participate as a party. If the NRC staff desires to be a party thereafter, the NRC staff shall notify the presiding officer and the parties, identify the contentions on which it wishes to participate as a party, and make the disclosures required by § 2.336(b)(3) through (5) unless accompanied by an affidavit explaining why the disclosures cannot be provided to the parties with the notice.

(3) Once the NRC staff chooses to participate as a party, it shall have all the rights and responsibilities of a party with respect to the admitted contention/matter in controversy on which the staff chooses to participate.

### § 2.1404 Prehearing conference.

(a) No later than forty (40) days after the order granting requests for hearing/petitions to intervene, the presiding officer shall conduct a prehearing conference. At the discretion of the presiding officer, the prehearing con-

ference may be held in person or by telephone or through the use of video conference technology.

(b) At the prehearing conference, each party shall provide the presiding officer and the parties participating in the conference with a statement identifying each witness the party plans to present at the hearing and a written summary of the oral and written testimony of each proposed witness. If the prehearing conference is not held in person, each party shall forward the summaries of the party's witnesses' testimony to the presiding officer and the other parties by such means that will ensure the receipt of the summaries by the commencement of the prehearing conference.

(c) At the prehearing conference, the parties shall describe the results of their efforts to settle their disputes or narrow the contentions that remain for hearing, provide an agreed statement of facts, if any, identify witnesses that they propose to present at hearing, provide questions or question areas that they would propose to have the presiding officer cover with the witnesses at the hearing, and discuss other pertinent matters. At the conclusion of the conference, the presiding officer will issue an order specifying the issues to be addressed at the hearing and setting forth any agreements reached by the parties. The order must include the scheduled date for any hearing that remains to be held, and address any other matters as appropriate.

### § 2.1405 Hearing.

(a) No later than twenty (20) days after the conclusion of the prehearing conference, the presiding officer shall hold a hearing on any contention that remains in dispute. At the beginning of the hearing, the presiding officer shall enter into the record all agreements reached by the parties before the hearing.

(b) A hearing will be recorded stenographically or by other means, under the supervision of the presiding officer. A transcript will be prepared from the recording that will be the sole official transcript of the hearing. The transcript will be prepared by an official reporter who may be designated by the